

IN THE CIRCUIT COURT OF SCOTT COUNTY  
STATE OF MISSOURI

GABRIEL MORENO and  
DIANA AGUILAR,

Plaintiffs,

V.

MSSM TRANSPORTATION, INC.,

and

AUTOBAHN FREIGHT LINES, LTD,  
[HOLD SERVICE]

Defendants.

Case No.: 18SO-CV02004

# AMENDED PETITION

COME NOW Plaintiffs Gabriel Moreno and Diana Aguilar, by and through their attorneys, Padberg, Corrigan & Appelbaum, and for their cause of action against Defendants MSSM Transportation, Inc. and Autobahn Freight Lines, Ltd., state to the Court as follows:

## GENERAL ALLEGATIONS

1. Plaintiff Gabriel Moreno (hereinafter referred to as “Plaintiff Moreno”) is a resident of the State of Texas.
2. Plaintiff Diana Aguilar (hereinafter referred to as “Plaintiff Aguilar”) is a resident of the State of Texas.
3. Defendant MSSM Transportation, Inc. (hereinafter referred to as “Defendant MSSM”) is a Michigan corporation in good standing.

## EXHIBIT A

4. Defendant Autobahn Freight Lines, Ltd. (hereinafter referred to as “Defendant Autobahn”) is a Michigan corporation in good standing.

5. At all times relevant herein and at the time of the subject incident, Defendants MSSM and Autobahn were operating commercial motor vehicles including tractor trailers, both intra-state and inter-state.

6. At all times relevant herein and at the time of the subject incident, Defendants MSSM’s and Autobahn’s driver, Evan Khalid-Yaqo Raheeman (hereinafter referred to as “Defendants’ driver”) was acting in the course and scope of his employment with Defendants MSSM and Autobahn.

7. On or about April 21, 2018, Interstate 57 at or near Bridge 46649 was an open and public highway in Scott County, State of Missouri.

8. On or about April 21, 2018, Defendants’ driver was an employee and agent of Defendants MSSM and Autobahn and was operating a 2006 tractor trailer, owned by Defendants MSSM and Autobahn, westbound on Interstate 57.

9. On or about April 21, 2018, Plaintiff Moreno was operating a tractor trailer, with Plaintiff Aguilar as a passenger, westbound on Interstate 57.

10. On or about April 21, 2018, Defendants’ driver lost control of the tractor trailer and crossed the median and impacted the vehicle occupying Plaintiffs.

11. At all times relevant herein, Defendants MSSM and Autobahn are vicariously liable for the actions of Defendants’ driver under the doctrine of respondeat superior in that Defendants’ driver was an agent, servant and/or employee of Defendants MSSM and Autobahn and was acting as an agent, servant and/or employee of Defendants

MSSM and Autobahn at the time of the subject collision, leading up to the subject collision, and at all times mentioned herein.

12. The subject collision occurred as the direct and proximate result of the negligence, carelessness and recklessness of Defendants' driver, while he was acting within the course and scope of his employment with Defendants MSSM and Autobahn, in one or more of the following respects:

- (a) Defendants' driver, operated the tractor trailer at an excessive rate of speed for the conditions there and then existing;
- (b) Defendants' driver drove at an unsafe, excessive and dangerous rate of speed;
- (c) Defendants' driver operated Defendants MSSM and Autobahn's tractor trailer without adequate training and experience;
- (d) Defendants' driver failed to operate Defendants MSSM and Autobahn's tractor trailer under proper control;
- (e) Defendants' driver drove while tired and/or fatigued;
- (f) Defendants' driver operated the tractor trailer on the highway in such a manner that he could not stop in time to avoid a collision with an object in his vision;
- (g) Defendants' driver failed to keep a careful lookout ahead and laterally;
- (h) Defendants' driver failed to operate the tractor trailer on the correct side of the road;

- (i) Defendants' driver failed to operate the tractor trailer in a careful and prudent manner so as not to endanger the life or limb of any person, and more particularly, Plaintiffs; and
- (j) Defendants' driver operated the tractor trailer in a careless and imprudent manner in violation of R.S.Mo. § 304.010.

13. Jurisdiction and venue are proper in the Circuit Court of Scott County in that the subject incident occurred within Scott County, Missouri.

**COUNT I  
PLAINTIFF MORENO'S CLAIM AGAINST  
DEFENDANT MSSM AND DEFENDANT AUTOBAHN**

COMES NOW Plaintiff Moreno and for Count I of his cause of action against Defendants MSSM and Autobahn, incorporates by reference all prior allegations as though specifically set forth herein and further states as follows:

14. As a direct and proximate result of the negligence and carelessness of Defendants MSSM and Autobahn and Defendants' driver, Plaintiff Moreno was caused to be struck with great force and violence, which incident caused severe, permanent and progressive physical injuries to Plaintiff Moreno's neck and back causing all the various and diverse bones, joints, ligaments, tissues, cartilages and muscles to become fractured, ruptured, torn, dislocated, sprained and strained. Plaintiff Moreno's ability to carry on normal work and labor has been substantially impaired, lessened and restricted, and will in the future continue to be restricted. Plaintiff Moreno has been forced to incur various surgical, medical, physical therapy and diagnostic expenses as and for reasonable and necessary medical care and treatment of his injuries, and will in the future be forced to

incur additional such medical expenses. Plaintiff Moreno's ability to engage in sporting and recreational activities and to enjoy the ordinary pursuits of life has been permanently impaired, lessened and restricted.

WHEREFORE, Plaintiff Moreno prays for judgment against Defendants MSSM and Autobahn in a just and reasonable sum in excess of \$25,000.00, together with his costs herein expended, and for such further relief as the Court deems just and proper under the circumstances.

**COUNT II**  
**PLAINTIFF AGUILAR'S CLAIM AGAINST**  
**DEFENDANT MSSM AND DEFENDANT AUTOBAHN**

COMES NOW Plaintiff Aguilar and for Count II of her cause of action against Defendants MSSM and Autobahn, incorporates by reference all prior allegations as though specifically set forth herein and further states as follows:

15. As a direct and proximate result of the negligence and carelessness of Defendants MSSM and Autobahn and Defendants' driver, Plaintiff Aguilar was caused to be struck with great force and violence, which incident caused severe, permanent and progressive physical injuries to Plaintiff Aguilar's neck and back causing all the various and diverse bones, joints, ligaments, tissues, cartilages and muscles to become fractured, ruptured, torn, dislocated, sprained and strained. Plaintiff Aguilar's ability to carry on normal work and labor has been substantially impaired, lessened and restricted, and will in the future continue to be restricted. Plaintiff Aguilar has been forced to incur various surgical, medical, physical therapy and diagnostic expenses as and for reasonable and necessary medical care and treatment of her injuries, and will in the future be forced to

incur additional such medical expenses. Plaintiff Aguilar's ability to engage in sporting and recreational activities and to enjoy the ordinary pursuits of life has been permanently impaired, lessened and restricted.

WHEREFORE, Plaintiff Aguilar prays for judgment against Defendants MSSM and Autobahn in a just and reasonable sum in excess of \$25,000.00, together with her costs herein expended, and for such further relief as the Court deems just and proper under the circumstances.

Respectfully submitted,

PADBERG, CORRIGAN & APPELBAUM  
A Professional Corporation  
Attorneys for Plaintiffs

/s/ Michael P. Corrigan

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### **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the above and foregoing document was served via the Court's CM/ECF filing system this 4<sup>th</sup> day of April, 2019 upon all counsel of record.

/s/ Michael P. Corrigan